

APPENDIX.

Sec. 77-2045, Compiled Statutes of Nebraska, 1929.

Same, Order of Sale, Costs. Upon the expiration of thirty days from and after such decree the plaintiff shall be entitled to an order of sale of the lands remaining unredeemed. No lot or parcel of land shall be sold for taxes due upon any other lot or parcel of land, nor shall any surplus proceeds of sale of one lot or parcel of land be applied to the payment of taxes or charges against any other lot or parcel of land: *Provided*, where the same defendant is the owner of two or more lots or parcels of land, the court may in its decree order that any surplus proceeds of sale of one lot or parcel of land shall be applied to the payment of taxes and costs against any other lot or parcel of land owned by the same defendant, where no rights of third persons will be affected thereby, and that only so much of the land so owned by one defendant shall be sold as may be necessary to satisfy all taxes and costs charged against all the lands owned by the same defendant. (1903 p. 477; Ann. 11136; Comp. 5159; R. S. 1913, 6565, C. S. 1922, 6093.)

Sec. 20-1531, Compiled Statutes of Nebraska, 1929.

Confirmation of Sale. If the court, upon the return of any writ of execution, or order of sale for the satisfaction of which any lands and tenements have been sold, shall, after having carefully examined the proceedings of the officer, be satisfied that the sale has in all respects been made in conformity to the provision of this title and that the said property was sold for fair value, under the circumstances and conditions of the sale, or, that a subsequent sale would not realize a greater amount, the court shall direct the clerk to make an entry on the journal that the court is satisfied of the legality of such sale, and an order that the officer make to the purchaser a deed of such lands and tenements; and the officer on making such sale may

retain the purchase money in his hands until the court shall have examined his proceedings as aforesaid, when he shall pay the same to the person entitled thereto, agreeable to the order of the court: *Provided*, the judge of any district court may confirm any such sale at any time after such officer has made his return, on motion and ten days' notice to the adverse party or his attorney of record, if made in vacation. When any sale is confirmed in vacation the judge confirming the same shall cause his order to be entered on the journal by the clerk. (Code P. 498, R. S. p. 478; 1875 p. 38; Ann. 1500; Comp. 7070; R. S. 1913, 8077; 1915 p. 319; C. S. 1922, 9013.)

Article V, Section 2, Constitution of Nebraska.

Supreme Court, Judges, Decisions, Jurisdiction, District Judges to Act as Associates, Divisions, Constitutionality of Statutes, District Judges Reimbursed for Expenses. The supreme court shall consist of seven judges, one of whom shall be the Chief Justice. A majority of the judges shall be necessary to constitute a quorum. A majority of the members sitting shall have authority to pronounce a decision except in cases involving the constitutionality of an act of the Legislature. No legislative act shall be held unconstitutional except by the concurrence of five judges. The supreme court shall have jurisdiction in all cases relating to the revenue, civil cases in which the state is a party, mandamus, quo warranto, habeas corpus, and such appellate jurisdiction as may be provided by law. Whenever necessary for the prompt submission and determination of causes, the supreme court may appoint judges of the district court to act as associate judges of the supreme court, sufficient in number, with the judges of the supreme court, to constitute two divisions of the court of five judges in each division. Whenever judges of the district court are so acting the court shall sit in two divisions, and four of the judges thereof shall be necessary to constitute a quorum. Judges of the district court so appointed shall serve during the

pleasure of the court, and shall have all the powers of judges of the supreme court. The Chief Justice shall make assignments of judges to the divisions of the court, and shall preside over the division of which he is a member and designate the presiding judge of the other division. The judges of the supreme court, sitting without division, shall hear and determine all cases involving the constitutionality of a statute, and all appeals from convictions of homicide; and may review any decision rendered by a division of the court. In such cases, in the event of the disability or disqualification by interest or otherwise of any of the judges of the supreme court, the court may appoint judges of the district court to sit temporarily as judges of the supreme court, sufficient to constitute a full court of seven judges. Judges of the district court shall receive no additional salary by virtue of their appointment and service as herein provided; but they shall be reimbursed their necessary traveling and hotel expenses. (Amended, 1890, 1896, 1908, 1920.)

Rules of the Nebraska Supreme Court.

The following are the applicable portions of the Revised Rules of the Supreme Court of the State of Nebraska in force at the time this litigation was pending:

10. Transcripts and Bills of Exceptions.

a. Transcript.—The transcript required by Section 20-1912 Compiled Statutes of 1929, as amended by L. B. No. 182 of the 1941 legislative session, shall contain the judgment, decree or final order sought to be reversed, vacated or modified, and a copy of the supersedeas bond, if any, given in the District Court, or if none be given, should contain a recital of the fact that a bond for costs was given and approved in the District Court or a deposit made as required by Rule 9a and by Section 20-1914 Compiled Statutes of 1929, as amended by L. B. 182 of the 1941 legislative session, and in addition thereto, such other parts of the record as may be designated by the party appealing. If any

objection is made to the giving or refusing to give any instructions, all instructions given by the court shall be copied in the transcript. If no such objection is made, all instructions may be omitted. The transcript shall be neatly and securely bound at the top and be paged at the bottom, and notes shall be placed on the left margin of each page of the transcript indicating the several pleadings in the case, the exhibits, if any, the rulings of the court, the verdict or special findings, if any, and an index referring to the initial page of each pleading, action and other paper or ruling in the record, and such index to form the first page of the transcript.

c. Bills of Exceptions.—The bills of exceptions shall be paged and shall have an index forming the first page thereof, referring to the initial page of the direct, cross and re-examination of each witness, and of each deposition or other paper or exhibit. Where the evidence is set out by deposition or otherwise, the name of each witness, and whether the examination is direct, cross or re-direct, shall be stated at the top or in the margin of each page. All depositions, exhibits or papers contained in the bill must, when practicable, be inserted immediately following the rulings of the court thereon, and the bill must be filed in the District Court. The questions in the bills of exceptions shall be numbered. Bills of exceptions may be filed at any time prior to the final submission of the case.

Briefs—How Prepared.

a. Appellant's Brief.—The brief of appellant shall consist of the statement of the case, the substance of such parts of the record relied upon, and the argument of counsel.

1. The statement of the case shall consist of:

- (a) The kind of action or nature of the case.
- (b) The issues actually tried in the court below.
- (c) How the issues were decided and what the judgment or decree of the trial court was.
- (d) The errors relied upon for reversal, separately numbered.

18. Motions for Rehearing.

a. All motions for rehearing in cases brought to this court by appeal or error proceedings must be printed and may be filed at any time within 20 days from the filing of the opinion or rendition of the judgment in the case. Such motion must specify distinctly the grounds upon which it is based and include the brief in support thereof, and which shall be prepared as nearly as possible in accordance with Rules 13 and 14. In all cases 15 copies must be filed with the clerk.

19. Mandates.

a. Civil Cases.—No mandate will issue in any civil case during the time allowed for the filing of a motion for rehearing, or pending the consideration thereof, unless specially ordered by the court or stipulated by the parties.

c. Where appeal is sought to be taken to United States Supreme Court.

Parties desiring to prosecute proceedings to the Supreme Court of the United States, either by appeal or certiorari may obtain an order staying the issuance of the mandate of this court by filing application therefor with the clerk. Such application shall be *ex parte* but must be filed within 20 days from the date of the filing of the opinion of this court. The court may require the giving of a bond as a condition for the granting of such stay.

